

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**MARIETTA C. RUSSELL, ADMINISTRATRIX  
OF THE ESTATE OF JOHN WILLIAM CHILDS,  
DECEASED, AND PERSONAL REPRESENTATIVE  
OF THE WRONGFUL DEATH BENEFICIARIES  
OF JOHN WILLIAM CHILDS, DECEASED,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 4:06CV168-P-B**

**NATIONAL HERITAGE REALTY, INC.,  
ET AL.,**

**DEFENDANTS.**

**ORDER OF PARTIAL DISMISSAL**

This matter comes before the court upon Defendant Indianola Health & Rehabilitation Center's motion to dismiss [5-1]. After due consideration of the motion the court finds as follows, to-wit:

Indianola Health & Rehabilitation Center filed the instant motion on October 5, 2006. On November 7, 2006 the court granted the plaintiff until October 30, 2006 by which to file her response. The plaintiff filed no response. Thus, it is undisputed that Indianola Health & Rehabilitation Center is a mere trade name under which National Heritage Realty, Inc. operated the subject nursing home. Accordingly, pursuant to *Parsons v. Marshall*, 139 So.2d 833 (Miss. 1962), the plaintiff's claims against Indianola Health & Rehabilitation Center should be dismissed.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

(1) Defendant Indianola Health & Rehabilitation Center's motion to dismiss [5-1] is **GRANTED**; therefore,

(2) All of the plaintiff's claims against purported defendant Indianola Health & Rehabilitation

Center are hereby **DISMISSED WITH PREJUDICE**.

**SO ORDERED** this the 3<sup>rd</sup> day of January, A.D., 2007.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE